Amendments to the Drawings

Kindly include the four replacement sheets for FIGS 1, 6, 7, 8, and 9. FIGS 7 and 8 are included on the same replacement sheet.

Remarks

Figure 1 has been amended to include the reference to the plurality of frame support cables (reference 15) to address the examiner's objection to claim 2. No new matter has been added in Figure 1.

Figure 6 has been amended to eliminate the modified forms of construction; the alternate construction has been shown in Figure 9 (New Sheet 8) to comply with 37 CFR 1.84(h)(5). No new matter has been added in Figure 6 or 9.

Figure 8 has been amended to address the objection related to the unwanted text in the original version of Figure 8. No new matter has been added in Figure 8.

The brief descriptions of the figures have been amended to reflect the amendments to the figures.

In objecting to the figures, the examiner states that reference character "61" was not mentioned in the specification. However, the applicant would like to draw the examiner's attention to paragraph [0031] in the specification where reference character "61" is provided and described as "rotor panel windows" which would be employed in particularly windy applications so that the rotors would not rotate at an excessive rate. As reference character "61" is currently included in the application, no action was taken to address this objection.

The abstract has been amended to conform to the examiner's objections.

The examiner has objected to the specification because of various informalities. Amendments to the specification have be made to address these informalities.

Claim 1 had been cancelled. Therefore, the examiner's objections to claim 1 are now moot.

Claim 2 has been held rejected to by the examiner under 35 U.S.C. § 103(a) as being unpatentable over McVey 4,486,143 ("McVey") in view of Bender 4,687,415 ("Bender") and Ewers 4,134,707 ("Ewers"). The applicant respectfully traverses this objection. The frame support cables shown by Bender and Ewers are substantially different in their form and purpose than those in the instant invention. The support cables shown by Bender and Ewers do not support the structure proper shown by Bender and Ewers and are not integral to the frame structure disclosed in the figures for the instant invention. In this manner, Bender teaches away from the manner in which the applicant places the support cables integral to the support structure. Further, the manner in which Bender places support cables within the pipe sections 19 and crossbars 17 precludes the invention shown by Bender to be scaleable or stackable unlike the instant invention. In Ewers having the support cables reach from the sides of the support frames to locations away

from the windmill obviate a goal of the instant invention to have a compact and less obtrusive structure.

Therefore, the applicant respectfully submits that Bender teaches away from the solution proposed by the applicant and adopting the solution of Bender would make the instant invention inoperable for its intended purpose. That is, Bender's approach would not make for a scaleable or stackable windmill. Since the prior art reference would teaches away from an operable solution, the prior art actually supports a showing of nonobviousness of the instant invention and can not be used to support a prima facie case of obviousness. *Tec Air, Inc. v. Denso Mfg. Mich. Inc.*, 192 F.3d 1353, 52 USPQ2d 1294, 1298 (Fed. Cir. 1999); *McGinley v. Franklin Sports Inc.,* 262 F.3d 1339, 60 USPQ2d 1001, 1010 (Fed. Cir. 2001). A prior art reference may be considered to teach away when "a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). If a person with ordinary skill in the art would have followed McVey in light of Bender and Ewers, a stackable windmill with the support cables as in the instant invention would not have resulted. Therefore, the applicant respectfully submits that the obviousness rejection is improper.

Alternatively, the applicant respectfully submits that McVey, Bender and Ewers do not contains suggestions to combine or modify the references. None of these references have a suggestion to combine the concept stackable windmills with the frame su pport cables as the combination taught by the instant invention with cables internal to the frame as shown in the various figures of the application. Therefore, since no suggestion was made by any of the references (in fact, the prior art taught away from this aspect of the instant invention), use of McVey, Bender and Ewers is not appropriate to establish a prima facie case of obviousness. "Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." *In re Geiger,* 815 F.2d 686, 688 (Fed. Cir. 1987) (citing *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. (BNA) 929, 933 (Fed. Cir. 1984)). Since McVey, Bender and Ewers do no suggest the combination of their elements to arrive at the the instant invention, rather they teach away from the instant invention, an obviousness rejection is improper. The applicant respectfully traverses this objection.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McVey 4,486,143 and Bender 4,687,415 and Ewers 4,134,707 as applied to claim 2 above, and further in view of McCabe 5,711,653 ("McCabe"). The applicant respectfully traverses this objection based on the same argument as above for claim 2.

Applicant traverses the obviousness rejection of claim 2 as outlined above. Therefore, if claim 2 is nonobvious, claim 3 is nonobvious based on prior art references McVey, Bender and Ewers. Further, an obvious rejection of claim 3 based on McVey, Bender, Ewers, and McCabe (collectively as "Purported Prior Art") is inappropriate as nothing in any of these references teaches towards the combination or modification of the Purported

Prior Art to arrive at the instant invention. In fact, as discussed above, McVey, Bender and Ewers teach away from using the cables as shown in the application. Therefore, including the additional invention disclosed by McCabe continues to render the instant invention nonobvious. *Tec Air, Inc.* 192 F.3d 1353, *McGinley* 262 F.3d 1339.

The Office has issued a nonstatutory double patent rejection for claims 1, 2 and 3. As claim 1 has been deleted from the instant invention, this rejection for this claim is is moot.

The Office rejected claim 2 of the instant invention on the ground of a nonstatutory obvious-type double patenting as being unpatentable over claim 2 of U.S. Patent 6,857,846 ("Miller Claim 2") in view of McVey, Bender and Ewers. Further the Officed rejected Claim 3 on the ground of a nonstatutory obvious-type double patenting as being unpatentable over claim 2 of U.S. Patent 6,857,846 ("Miller Claim 2") in view of McVey, Bender, Ewers and McCabe. The Applicant intends to file a terminal disclaimer to address this rejection once prosecution on the other issues presented herein are addressed by the office. The applicant requests that until prosecution on the merits is otherwise completed that the Office holds this rejection in abeyance.

CONCLUSION

The applicant sincerely appreciates the effort and care the examiner has used in examining the application. The applicant believes that all of the Office's objections and rejections have been address or traversed with more than adequate support with appropriate authority.

The applicant submits that the application is in condition for allowance and earnestly requests that a timely Notice of Allowance be issued in this case.

Dated this 4th day of January, 2007
Respectfully submitted,

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